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GENERAL AVERAGE — NATURE, CAUSE, AND MANNER OF SACRIFICE — EFFECT OF INHERENT VICE OF CARGO UPON THE RIGHT TO CONTRIBUTION. — A cargo of garbage tankage took fire by spontaneous combustion. The whole cargo of garbage tankage was destroyed in putting out the fire. The plaintiff insurance company had to indemnify the cargo owner and sued the vessel for a general average contribution. *Held*, that the plaintiff is not entitled to contribution. *Atlantic Mutual Ins. Co.* v. *Schooner W. J. Quillan*, 42 N. Y. L. J. 1821 (U. S. Dist. Ct., S. D. N. Y., Jan., 1910).

This reverses a former decision in the same case discussed in 22 HARV. L. REV. 452.

GIFTS — IMPERFECT GIFT — APPOINTMENT OF DONEE AS EXECUTRIX. — A testator promised that the plaintiff should have £2 a week during her life, and died without altering his intention. The will, of which the plaintiff was executrix, made no such provision. *Held*, that she has no claim against the estate. *In re Inness*, [1910] 1 Ch. 188.

Where an ineffectual release of a debt is made, a leading case has declared that the transaction is completed by the debtor becoming executor under the will of the releasor. *Strong* v. *Bird*, L. R. 18 Eq. 315. And a recent decision following the *dictum* of the earlier case reached the same result where execution was entrusted to one to whom an imperfect gift had been made. *Stewart* v. *McLaughlin*, [1908] 2 Ch. 251. See 22 HARV. L. REV. 60. These holdings must, however, be put upon different grounds. Apart from the question whether an unattested act should control testamentary disposition, it is proper for equity to decline to relieve against a release involved in law merely by the appointment of a debtor as executor, provided such release represents the intent of the testator. See 23 HARV. L. REV. 392. But for equity to act affirmatively and give to a donee an interest prevailing over the legal right of legatees is quite another matter. No decision found in this country hints at such a result. And for declining to extend the doctrine to cases in which the *res* is unspecified or a future transference is contemplated, the principal case is to be commended.

INDICTMENT AND INFORMATION — FINDING AND FILING INDICTMENT — PRESENCE OF EXPERT ACCOUNTANT IN GRAND JURY ROOM. — At the request of the district attorney, an expert accountant accompanied him into the grand jury room while that body was investigating the charge against the defendant. The accountant assisted the district attorney in examining witnesses, and asked a few technical questions. He did not attempt to influence the jurors. No prejudice to the defendant was shown to have resulted from his presence. *Held*, that the indictment must be quashed. *United States* v. *Heinze*, (Unreported) Circ. Ct., S. D. N. Y., Jan. 22, 1910.

A defendant prejudiced by the conduct of grand jury proceedings may have the indictment quashed. *United States* v. *Farrington*, 5 Fed. 343. But as to the presence of an unauthorized person not prejudicing the defendant's rights, the law is in confusion. Generally, a stenographer or bailiff is considered so far an automaton as to be unobjectionable. *State* v. *Bacon*, 77 Miss. 366; *United States* v. *Simmons*, 46 Fed. 65. *Contra*, *State* v. *Bowman*, 90 Me. 363. For the secrecy of the proceedings is said not to be for the defendant's benefit. See *Commonwealth* v. *Mead*, 12 Gray (Mass.) 167; *State* v. *Broughton*, 7 Ired. (N. C.) 96. The presence of a stranger who is an active factor in conducting the proceedings is always considered an error. By some courts it is deemed an error of substance; by others, merely an error of form. The principal case follows the weight of the federal decisions in holding that the defendant has received injury in law by the existence of an opportunity for an outsider to influence the grand jury. *United States* v. *Kilpatrick*, 16 Fed. 765; *United States* v. *Virginia-Carolina Chemical Co.*, 163 Fed. 66. A number of state courts think the defendant is sufficiently protected